

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

TECHNOLOGY PROPERTIES LIMITED and  
PATRIOT SCIENTIFIC CORPORATION,

Plaintiffs,

v.

MATSUSHITA ELECTRIC INDUSTRIAL  
CO; LTD; PANASONIC CORPORATION OF  
NORTH AMERICA; JVC AMERICAS CORP.;  
NEC CORPORATION; NEC ELECTRONICS  
AMERICA, INC.; NEC AMERICA, INC.; NEC  
DISPLAY SOLUTIONS OF AMERICA, INC.;  
NEC SOLUTIONS AMERICA, INC.; NEC  
UNIFIED SOLUTIONS, INC.; TOSHIBA  
CORPORATION; TOSHIBA AMERICA,  
INC.; TOSHIBA AMERICA ELECTRONIC  
COMPONENTS, INC.; TOSHIBA AMERICA  
INFORMATION SYSTEMS, INC.; and  
TOSHIBA AMERICA CONSUMER  
PRODUCTS, LLC,

Defendants.

Civil Action No. 2-05CV-494 (TJW)

**DEFENDANT ARM'S RESPONSE TO PLAINTIFFS' MOTION TO AMEND  
PRELIMINARY INFRINGEMENT CONTENTIONS**

Defendants ARM, Inc. and ARM, Ltd. (collectively, "ARM") oppose Plaintiffs' motion to amend their preliminary infringement contentions (the "PICs Motion") because the PICs Motion has the potential to disrupt the Court's scheduled November 2007 trial date. ARM intervened in this lawsuit to protect its co-defendant licensees and to stop Plaintiffs' campaign against ARM's other licensees. Any delay in the trial schedule would merely spread unwarranted fear, uncertainty and delay to ARM's customers and licensees.

As is noted in the opposition submitted by other defendants, the PICs Motion could result in a substantial expansion of discovery against the other defendants.<sup>1</sup> Such a belated expansion of the case is fraught with the possibilities for discovery disputes. If Plaintiffs had timely brought this motion, then such disputes could be managed, but the lengthy delay creates potential problems as the trial date approaches.

Any delay in the trial schedule harms ARM. Outside this litigation, Plaintiffs have contacted hundreds of ARM's customers to make accusations of patent infringement. ARM believes such charges are unfounded but, unfortunately, Plaintiffs force ARM's licensees to sign non-disclosure agreements ("NDA's") preventing ARM from seeing the contents of Plaintiffs' allegations. These NDA's impede ARM's ability to address Plaintiffs' allegations of infringement. While Plaintiffs have produced some of the communications in discovery, ARM should not have to fight discovery battles to see communications sent to ARM's customers. ARM merely wants to defend itself and its customers against this unfair practice.

Delay thus becomes an advantage in Plaintiffs' licensing campaign. The longer Plaintiffs can delay adjudication, the greater the possibility that companies will accept licenses merely because of the fear, uncertainty and delay factor. Timely resolution as provided by the Court's existing schedule is the fairest manner in which to address Plaintiffs' infringement charges.

ARM offered to forego opposition to this motion if Plaintiffs would agree to: (1) not seek any delay in the trial schedule resulting from its new preliminary infringement contentions; and (2) release ARM's licensees from non-disclosure agreements so that ARM could respond

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<sup>1</sup> It is uncertain what effect the PICs Motion will have on ARM's discovery burdens. ARM has already collected approximately 10,000,000 pages of documents responsive to Plaintiffs' document inquiries. ARM and the Plaintiffs are presently exploring ways to reduce this potential production to lessen the expense and burden on both sides.

and defend itself against these unfounded accusations of infringement. Plaintiffs refused to agree to not seek a delay in the trial date. This raises serious concerns.

Plaintiffs chose this district fully aware of this Court's procedures and efficient docket management. With the benefit of choosing the forum comes the responsibility of following the chosen court's procedures. Because Plaintiffs have confirmed the validity of ARM's concern regarding the potential for a slippage of the trial date, ARM respectfully opposes Plaintiffs' PICs Motion.

Respectfully submitted,



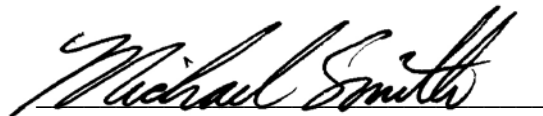
James H. Wallace, Jr.  
DC Bar. No. 016113  
jwallace@wileyrein.com  
Gregory E. Lyons  
DC Bar. No. 436071  
glyons@wileyrein.com  
Kevin P. Anderson  
DC Bar. No. 476504  
kanderson@wileyrein.com  
WILEY REIN LLP  
1776 K Street, N.W.  
Washington, D.C. 20006  
Tel: (202) 719-7000  
Fax: (202) 719-7049

Carl R. Roth  
Texas Bar No. 901984225  
cr@rothfirm.com  
Michael C. Smith  
Texas Bar No. 900641877  
ms@rothfirm.com  
THE ROTH LAW FIRM, P.C.  
115 North Wellington, Suite 200  
P.O. Box 876  
Marshall, Texas 75671  
Tel: (903) 935-1665  
Fax: (903) 935-1797

*Counsel for ARM Defendants*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) this 18<sup>th</sup> day of April, 2007. Any other counsel of record will be served by facsimile transmission and/or first class mail.

  
Michael C. Smith